

EXHIBIT "A"
STATE OF MONTANA
BEFORE THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

IN THE MATTER OF APPLICATION
FOR BENEFICIAL WATER USE
PERMIT NO. 245-s76H BY
MONICA SOBCZAK

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

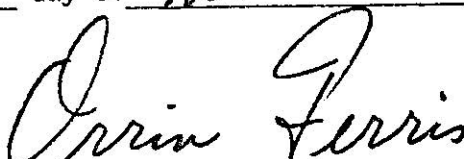
The Proposed Findings of Fact and Conclusions of Law in this matter entered on October 3, 1974, are hereby adopted as the Final Findings of Fact, Conclusions of Law and the Final Order is hereby ordered.

ORDER

1. The permit is granted allowing the appropriation of 5.1 acre-feet of water per annum from an unnamed tributary of Ambrose Creek to be diverted at a point in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 19, Township 9 North, Range 18 West, of Ravalli County, provided the Applicant notifies the Department within sixty (60) days of the completion of the development of a spring at the same location. If it is found that the spring will supply the needs of the applicant, this permit will not become effective. If at the end of the sixty (60)-day period, the Applicant has failed to inform the Department of the results of the spring development, this permit will be withdrawn.

2. This permit is granted subject to existing water rights.

Done this 27th day of November, 1974.



Administrator, Water Resources Division
DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

CASE # 245

J. L. M. 30
APR 1974

BEFORE THE DEPARTMENT
OF
NATURAL RESOURCES AND CONSERVATION

IN THE MATTER OF APPLICATION
FOR BENEFICIAL WATER USE PERMIT
NO. 245-s76H, by MONICA SOBCZAK

}
} PROPOSED FINDINGS OF FACT,
} CONCLUSIONS OF LAW AND ORDER

Pursuant to the provisions of the Montana Water Use Act, Section 89-865, et seq., R.C.M., after due notice a public hearing was held on August 22, 1974 at the Ravalli County Courthouse, Hamilton, Montana. The objectors, Edwin E. Lewis and Rose Lewis appeared and along with their son, Francis Lewis, presented testimony. The other objectors of record, Wallace B. Brown, Stevensville, Montana; and E.N., Bessie and Charlotte Bolin, Stevensville, Montana were not present.

PROPOSED FINDINGS OF FACT

1. On September 4, 1973, Monica Sobczak of Stevensville, Montana, filed with the Montana Department of Natural Resources and Conservation an application for beneficial water use permit to appropriate water from an unnamed stream, which is a tributary of Ambrose Creek.
2. The total quantity of water to be appropriated is 5.1 acre-feet per annum. 4.8 acre-feet per annum is to be used for irrigation purposes from May 1 to September 30 on five acres in the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 19, Township 9N, Range 18W; 2 acre-feet per annum is to be used for domestic purposes from January 1 to December 31; and .1 acre-feet per annum is to be used for livestock purposes from January 1 to December 31.
3. Objections were filed by: Edwin E. Lewis and Rose Lewis; Wallace B. Brown and E.N., Bessie and Charlotte Bolin all of Stevensville, Montana. Edwin E. Lewis and Rose Lewis were present at the hearing and presented testimony and evidence. The objectors have an apparent prior water use right to the Applicant.
4. The applicant's proposed diversion works would consist of a 1 $\frac{1}{2}$ inch pipe, pump, and open ditch with no storage.
5. The applicant is in the process of developing a spring on the same tract of land which could possibly supply all her water needs without the present application.
6. The applicant has the right to appropriate the water in the source of supply; the means of diversion is adequate; the proposed uses are beneficial uses if the spring does not meet her needs; the proposed use will not interfere with other planned uses or developments for which a permit has been issued or for which water has been reserved; and, the rights of prior appropriators will not be adversely affected.

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7. There is adequate water in the source for this application in at least three (3) years out of ten and some water available in many other years.

From the foregoing proposed findings of fact the following proposed conclusions of law are hereby made:

PROPOSED CONCLUSIONS OF LAW

1. Under the provisions of Section 89-880, R.C.M. 1947, a permit to appropriate water from an unnamed stream which is a tributary of Ambrose Creek is required.
2. The applicants' intended uses as described in the application are beneficial uses for which water may be appropriated.
3. The application for beneficial water use permit may be granted in accordance with the provisions of Chapter 8 of Title 89 of the Laws of the State of Montana.

Based on the above proposed findings of fact and conclusions of law, the following order is proposed:

PROPOSED ORDER

1. The Applicants permit is granted allowing the appropriation of 5.1 acre-feet of water per annum from an unnamed tributary of Ambrose Creek to be diverted at a point in the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 19, Township 9N, Range 18W of Ravalli County, provided she notifies the Department within sixty (60) days of the completion of the development of a spring at the same location. If it is found that the spring will supply the needs of the applicant, this permit will not become effective. If at the end of the sixty (60) day period, the applicant has failed to inform the Department of the results of the spring development, this permit will be withdrawn.
2. This permit is granted subject to existing rights.

NOTICE: This is a proposed Order and will become final when accepted by the Administrator, Division of Water Resources, Department of Natural Resources and Conservation. Pursuant to Section 82-4212, R.C.M. 1947, and Rule MAC 1-1.6(2) P6190, written exceptions to this Proposed Order shall be filed with the Administrator within five (5) days of service of this Proposed Order upon the parties herein. Upon receipt of any written exceptions, opportunity will be afforded to file briefs and make oral arguments before the Administrator.

3 Oct 1974
Date

Gary L. Spaeth
Gary L. Spaeth
Hearing Examiner

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